



STATE BOARD OF EDUCATION
TRUSTEES OF BOISE STATE UNIVERSITY
TRUSTEES OF IDAHO STATE UNIVERSITY
TRUSTEES OF LEWIS-CLARK STATE COLLEGE
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO
STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION
TRUSTEES FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND

**DRAFT MINUTES
STATE BOARD OF EDUCATION MEETING
October 2-3, 2002
Lewis- Clark State College, Williams Conference Center
Lewiston, Idaho**

A regular meeting of the Idaho State Board of Education was held on October 2-3, 2003 at Lewis-Clark State College, Williams Conference Center, in Lewiston, Idaho. The meeting was called to order at 10:00 a.m. President Blake Hall presided. The following members were present:

Blake Hall, President	Jim Hammond, Vice President
Rod Lewis, Secretary	Marilyn Howard, State Superintendent
Milford Terrell	Paul Agidius
Laird Stone	Karen McGee (joined a portion of the meeting by phone)

BOARDWORK

1. Agenda Approval

M/S (Lewis/Agidius) To approve the agenda as written. Motion carried unanimously.

2. Rolling Calendar

M/S (Stone/Hammond): To approve October 14-15, 2004 as the date and Lewis-Clark State College as the location of the October 2004 regularly scheduled meeting. Motion carried unanimously.

3. Minutes Review / Approval

M/S (Stone/Agidius): To approve the minutes of the August 14-15, 2003 as amended meeting of the State Board of Education as submitted. Motion carried unanimously.

Board member Stone asked that the minutes be amended (page 9-10) on the motion pertaining to the allocation of federal funds so that the last sentence of the motion would be modified to read: "Public charters may receive additional funding for special needs students if the State and

Federal requirements for such funds are fulfilled. This action is intended to be carried out to the extent it is not inconsistent with federal law or our federal consent decree.” Board member Stone said that this change clarifies the original intent of the motion.

OPEN FORUM

Eddie Hanks, Student Body President of Idaho State University spoke to the Board about the view of the ISU student body on fee increases for fiscal year 2004-2005.

Jane Lesko of Grangeville expressed her concern to the Board regarding the new federal curriculum, and specifically her views of the book We the People: The Citizen and the Constitution.

EXECUTIVE SESSION

M/S (Hammond/Lewis): To enter into executive session pursuant to Idaho Code Section 67-2345(1) (a) to consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office; (b) to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student (d) to consider records that are exempt by law from public inspection (f) to consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation. Roll call vote taken; motion carried unanimously.

M/S (Hammond/Stone): To authorize the Executive Director to provide for a hearing officer to hear the case of Angel Ramos and provide findings of fact and conclusion of law to this Board. Motion carried unanimously.

CHARTER SCHOOL APPEAL – NAMPA II CHARTER SCHOOL

Board member Hall opened the discussion and asked what the will of the Board was on this item.

Board member Terrell initiated the discussion by sharing his perspectives of the role of education in Idaho and emphasized the important contribution that charter schools make to public education.

Board member Hall reminded all the Board members not to waive the attorney/client privilege the Board has with its attorney on the documents relative to this discussion.

Board member McGee commented on the future of education in Idaho and stated her opinion that charter schools are an important part of that future. She recommended there be a motion to allow the Nampa II Charter School.

Board member Hammond stated that he finds charter schools exciting and that if he were to go back into education he would work in the charter school. He said that he did find it difficult to

clearly interpret the actions of the Board of Trustees or whether the individuals founding the charter school have all the right resources to comply with the charter.

Board member Howard expressed concerns regarding the funding of the school and the access to education. She stated that the Board should keep all of the children of Idaho in mind in making this decision. She stated the hearing officer's finding supported the denial and that the Board should take that into consideration. She stated that she felt the appeal should be denied.

Board member Lewis stated that in his opinion the Board was being asked to determine whether or not the Nampa school district board acted arbitrarily. He stated that *Black's Law Dictionary* defined arbitrary as: "a decision founded on prejudice or preference rather than on fact or reason." He stated that after reviewing the entire record that there is a high likelihood the decision by the Nampa school district was based on preference or prejudice rather than on fact or reason. He then stated a number of instances which in his mind supported the appeal. He also stated that the Board should find that duplicity of services from another charter school should not affect the decision to grant a petition.

Board member Stone discussed the impact of this appeal on the discretion of local school boards. He stated that he did not want to downplay the importance of public charter schools and that public charter schools in Idaho are a necessity. He stated that he did not conclude from his review that the entire process was arbitrary even though at least two incidences were arbitrary.

Board member Agidius stated support for Mr. Stone's comments and stated that he did not want to substitute his judgment for the Board of Trustees.

Board member McGee stated support for Mr. Lewis' comments emphasizing the number of elements that appeared to be arbitrary and stated that we should move forward to help the parents. She also reminded the Board members that public charter schools are public schools for public education.

Board member Hall reviewed Idaho Code and reminded the Board that the law is direct in stating that if the decision was arbitrary then the Board must approve the charter. He discussed his review of the documents highlighting the elements which he felt were arbitrary and concluded that the Board had no other option in his opinion than to acknowledge the arbitrary nature of the opinion and grant the charter.

(A complete transcript of this discussion is available upon request from the Office of the State Board.)

M/S (Terrell/ McGee): To find that the Board of Trustees acted in an arbitrary manner in denying the Nampa Charter School II request. Accordingly, the petition for the establishment of the Nampa II Charter School is hereby granted. *Roll call vote taken: 5 Ayes and 3 Nays (Stone, Agidius and Howard). Motion carried.*

M/S (Lewis/Terrell): To approve the Final Order of the Idaho State Board of Education in the Matter of the petition of the Nampa Charter School II versus Nampa School District

No. 131. *Roll call vote taken: 4 Ayes and 3 Nays (Ayes: Lewis, Terrell, Hall and Hammond; Nays: Stone, Agidius, Howard).*

ACCOUNTABILITY REPORT

Karen Vauk and Carissa Miller presented the Accountability Report. Board member Hall asked if the Accountability Committee had any recommendations regarding waivers or exemptions for special education or limited English proficient students. Ms. Vauk said there was no formal recommendation at this time.

PLANNING, POLICY & GOVERNMENTAL AFFAIRS – Milford Terrell

1. Lewis-Clark State College Progress Report – Dene Thomas

Dr. Thomas, President of Lewis Clark State College, presented the LCSC progress report. ASB President Justin Coleman spoke about student issues, activities and recognitions at LCSC.

2. Presidents’ Council Report – Dene Thomas

President Thomas reported that at the last Presidents’ Council there was discussion about the change of schedule for student fee hearings. The Presidents also discussed capital projects. These are the short-term issues.

Under long-term issues, the Presidents are developing a strategic plan and giving attention to access, quality (including salary competitiveness) and a financial report including full context and content. A full report on access will be provided at the next meeting of the Board.

3. Temporary Waiver of IDAPA 08.02.03.11.06.n

Board member Howard asked if tests taken in the fall or the middle of the year will be level tests or something different. It was noted that the tests will be level tests and only for students after the 10th grade year.

M/S (Terrell/Agidius): To approve a temporary waiver of IDAPA 08.02.03.11.06.n for all public school districts that would expire June 30, 2004. Motion carried unanimously.

4. Final Reading: Section IV.E. Eastern Idaho Technical College

Board member Howard noted a sentence on page 24 under section 1.b where the words “professional-technical education” are being struck and suggested striking the same words on page 26 for consistency. Board member Hall agreed and recommended making modifications to the proposed policy under section I.2.e to strike the words “state board for professional-technical education.”

M/S (Terrell/Hammond): To approve for final reading changes to Section IV.E. Eastern Idaho Technical College as modified. Motion carried unanimously.

5. First Reading: Section I.J. Institutional Facilities and Services

Board member Lewis asked for clarification regarding the appropriate timing for considering a waiver because the rule related to this policy hasn't been approved by the Legislature yet. He also questioned whether the Board had been given enough time to study the language of this proposed policy prior to this meeting. He recommended postponing a vote on this policy until a later time.

M/S (Lewis/Agidius): To table this item until a later date when it will be called from the table upon the majority vote of the Board. *Motion to table carried unanimously.*

6. ISHS Proposed Legislation

Steve Guerber of the Idaho State Historical Society spoke to the Board about proposed legislation it wishes to submit to the Legislature regarding efforts to preserve historical and cultural sites in Idaho.

Board member Hall said the tax policy needs to be left to the Legislature.

M/S (Terrell/Agidius): To support the Idaho State Historical Preservation and Cultural Enhancement Act. *Motion withdrawn.*

A substitute motion was made.

M/S (Terrell/Agidius): To grant the Idaho State Historical Society the authority to approach the Legislature with the proposed Idaho State Historic Preservation and Cultural Enhancement Act legislation. *Motion carried unanimously.*

BUSINESS AFFAIRS & HUMAN RESOURCES – Jim Hammond**Section I – Finance**1. Boise State UniversityPlan and design Multi-purpose Classroom Bldg Phase II

Buster Neal presented Boise State University's plan to address needs on the campus using existing resources. He asked for Board approval to move ahead with planning. The intent is to come back with a firm financing plan in December.

Board member Hall asked how much the planning will cost. Mr. Neal said the cost will be minimal and that there will not be architectural renderings.

M/S (Hammond/Terrell): To approve the request by Boise State University to proceed with the internal planning and a financial plan of the second phase of the multi-purpose

classroom building. Approval to construct will be addressed after presentation of a financing plan. Motion carried unanimously.

Plan and design New Student Services Center

M/S Hammond/Terrell): To approve the request by Boise State University to proceed with the internal planning and a financial plan of the construction of a student services center. Approval to construct will be addressed after presentation of a financing plan. Motion carried unanimously.

Plan and design Bronco Stadium Capital Projects

M/S (Hammond/ Terrell): To approve the requisition by BSU to proceed with the internal planning and a financial plan for capital projects in Bronco Stadium. Motion carried unanimously.

Plan and design Environmental Science & Policy Center

M/S (Hammond/Agidius): To approve the expenditure of \$450,000 in federal funds as requested by BSU to proceed with the planning and design of an Environmental Science and Policy Center. Motion carried unanimously.

Naming/Memorializing “Fedrizzi Fitness Center Annex”

M/S (Hammond/Stone): To approve the request by Boise State University to name the west facing side of the weight room expansion area the “Fedrizzi Fitness Center Annex.” Motion carried unanimously.

2. University of Idaho

Vandal Athletic Center (ASUI Kibbie Activity Center completion)/Commercial loan with Wells Fargo Brokerage Services

There was discussion about why the original project is 20% over what was originally approved and why the Board wasn’t notified about the situation sooner.

M/S (Hammond/Agidius): To approve a request by the University of Idaho to increase the project budget for the Vandal Athletic Center by \$1,000,000 and to enter into tax-exempt financing with Wells Fargo Brokerage Services in an amount not to exceed \$675,000. Roll call vote taken: 5 Ayes and 2 Nays (Ayes: Agidius, Hammond, Howard, Terrell and Stone; Nays: Hall and Lewis).

M/S (Hammond/Stone): To approve a resolution of the Regents of the University of Idaho allowing the U of I to consummate a \$675,000 loan from Wells Fargo Brokerage Service LLC. Roll call vote taken: motion carried unanimously.

Facilities Lease Extension with MK Plaza in Boise

M/S (Hammond/Stone): To approve the request by the University of Idaho to extend portions of the existing lease at the MK Plaza in Boise through June 2005 by entering into the “Eleventh Amendment to Office Space” between MK Plaza Trust and the Regents of the University of Idaho. *Motion carried unanimously.*

University of Idaho Voluntary Separation and Retirement Opportunities Program

Discussion only; no Board action required.

3. Request to Carry Forward Authorized Unspent Funds

M/S (Hammond/Stone): To approve the requests from the institutions and agencies to carry over authorized but unspent funds from FY2003 to FY2004. *Motion carried unanimously.*

4. Final Reading: Governing Policies & Procedures, Section V.R. Student Fees

M/S (Hammond/Stone): To approve the final reading of changes to Idaho State Board of Education Governing Policies and Procedures Section V.R. Establishment of Fees to change the time line for setting student fees and to change the criteria used to set student fees as displayed in the exhibit. *Motion carried unanimously.*

5. FY2005 MCO Operating Budget Requests, Update

Discussion only; no Board action required.

6. FY2005 Enhancement Budget Requests – Update, Historical Society

Steve Guerber updated the Board about enhancement requests by the Idaho State Historical Society which include Lewis & Clark Commemoration Support, Historic Records Preservation and the Preservation and Conservation of Historic Properties of the State (Restoring and Maintaining Historical Buildings).

M/S (Hammond/Agidius): To approve the enhancement requests by the Idaho State Historical Society for the 2005 budget year. *Motion carried unanimously.*

7. FY2005 Capital Budget Request

Steve Guerber spoke to the Board regarding the Idaho History Center, the Museum Center, the Old Penitentiary Visitor Access and the New Cell House building projects.

M/S (Hammond/Stone): To give the Idaho Historical Society authority to move forward with the building request of the Idaho History Center phase II for the FY05 request. *Motion carried unanimously.*

8. FY2004 College and Universities Summary of Sources and Uses of Funds

Discussion only; no Board action required.

9. University of Idaho Foundation Note Interest Rate

M/S (Hammond/Agidius): To amend the Board of Regent's agreement for the extension of the obligation of the University of Idaho Foundation to the Board in the amount of \$2,030,198.17 to reflect an interest rather of 1% per annum rather than the previously referenced federal prime rate. Motion carried unanimously.

Section II – Human Resources1. Boise State University

A request by Boise State University for new positions and changes in positions

M/S (Hammond/Terrell): To approve the request by Boise State University for five (5) new positions, increases in terms of appointment for two (2) positions, and an increase in FTE for one (1) position as detailed in its Human Resources agenda. Motion carried unanimously.

2. Idaho State University

A request by Idaho State University for new positions

M/S (Hammond/Terrell) : To approve the request by Idaho State University for four (4) new positions as detailed in its Human resources agenda. Motion carried unanimously .

3. University of Idaho

A request by University of Idaho for a non-delegated appointment

M/S (Hammond/Terrell): To approve the request by the University of Idaho to appoint William Cone as Psychiatrist at a salary equal to or greater than 75% of the president's base salary as detailed in its Human resources agenda. Motion carried unanimously.

4. Lewis-Clark State College

A request by Lewis-Clark State College for new positions

M/S (Hammond/Terrell): To approve the request by Lewis-Clark State College for three (3) new positions as detailed in its Human Resources agenda. Motion carried unanimously.

INSTRUCTION, RESEARCH & STUDENT AFFAIRS – Rod Lewis

1. New Program ApprovalNew Graduate Program–Au.D., Audiology -- ISU

M/S (Lewis/Hammond): To approve Idaho State University's new doctoral program in audiology. *Motion carried unanimously.*

New AAS Degree Program -- Wildland Firefighting -- BSU

M/S (Lewis/Hall): To approve Boise State University's AAS degree in Wildland Firefighting. *Motion carried unanimously.*

2. Accountability Report

Randy Thompson spoke to the Board about the Accountability Plan and the targets for Graduation Rate and the Other Academic Indicator. He recommended the Board approve a graduation rate target of 90% by the 2013 school year. He noted that this target rate can be adjusted over time.

M/S (Lewis/Terrell): To approve increasing the graduation rate target to 90%. *Motion carried unanimously.*

3. ISAT Process

Randy Thompson discussed a study prepared by the Northwest Regional Educational Lab (NWREL) that addressed the alignment of the ISAT blended test with Idaho Education Standards.

4. Federal Funds Review

At its August meeting the Board passed three motions related to the funding of public schools. The three motions are listed as Policy Directives. At the same time Board staff was directed to conduct a review of the flow of state and federal funds to public schools as they pertain to those Board actions.

The Board actions relate to the calculation of ADA and the distribution of state and federal education dollars to public schools with approved distance education programs. Randy Thompson reported that the Board actions have been posted to the web and that a letter had been sent to the Superintendent's office requesting a report on the implementation of the actions.

Board member Hall directed Board staff to continue with the review of the flow of state and federal funds to public schools as they pertain to the three Board motions and have the results of that review available by the December 4, 2004 Board meeting.

5. American Board Certification for Teaching Excellence

Action on this item is deferred to the next meeting.

EXECUTIVE SESSION

M/S (Lewis/Agidius) That the Board enter into executive session pursuant to Idaho Code Section 67-2345(1) (a) to consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office; (b) to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student (d) to consider records that are exempt by law from public inspection (f) to consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation. Roll call vote take: motion carried unanimously.

DEPARTMENT OF EDUCATION – Marilyn Howard

A. Final Order of Petition to Transfer Property from Lakeland School District and Coeur d'Alene School District.

Dr. Bob West explained that this is the written order of the previous action taken by the Board to disapprove the petition and recommended Board approval.

M/S (Howard/Terrell): To approve the final order disapproving the petition to excise property from the Lakeland School District to transfer into the Coeur d'Alene School District. Motion carried unanimously.

B. Pending Transportation Rule, Reimbursement Matrix

Department of Education staff recommends approval of this pending rule.

M/S (Howard/Agidius): To approve a pending rule (Docket No. 08-0202-0301) for publication in the November 5, 2003 Administrative Bulletin. Motion carried unanimously.

M/S (Howard/Terrell): To approve a rule by reference, i.e., the Standards for Idaho School Buses and Operations – October 3, 2003. Motion carried unanimously.

M/S (Howard/Terrell): To approve a pupil transportation reimbursement matrix to be posted on the Department's website. Motion carried unanimously.

C. Safety Busing Reimbursement

During discussion about safety busing and estimated costs it was noted that the Board did not approve reimbursement for costs associated with transporting students less than one and one-half miles for FY 2003 at the June 2003 meeting. Statute requires that this action come before the Board which is why it is being brought forward at this meeting for reconsideration.

M/S (Howard/Hammond): To approve safety busing reimbursement requests for fiscal year 2003. *Motion carried unanimously.*

D. Request for Letters of Authorization

Dr. Bob West noted that Letters of Authorization have been approved by the Professional Standards Commission. Final approval by the Board is recommended.

M/S (Howard/Terrell): To approve the requests for Letters of Authorization as recommended by the Professional Standards Commission. *Motion carried unanimously.*

E. Annual Report – Hardship for Albion Elementary School

It was noted that conditions supporting the October 1999 decision to approve the Albion Elementary School as a Hardship Elementary School have not changed. Therefore, the Department of Education recommends that the Board does not rescind the hardship status of Albion Elementary School in Cassia County District #151.

The Board took no action to rescind the hardship status for Albion Elementary School.

F. Schools Requesting to Operate with Fewer Than 10 Pupils – Report

Dr. Marilyn Howard approved all of the requests to operate an elementary school during the 2003-2004 school year with less than ten (10) pupils in average daily attendance.

No action required by the Board.

G. Public schools FY05 Budget

Mr. Tim Hill of the Department of Education presented a description of the budget. Dr. Marilyn Howard then remarked on several items and Jeff Shinn went over the Division of Financial Management format of the budget.

No Board action required.

Superintendent's Report

Dr. Howard expressed concerns about several Board actions including the shift of the Title II federally funded position from the Department of Education to the Board Office. Board member Hall clarified that the shift of the federal funds in question went hand-in-hand with the recognition that the Board is designated by law to have authority over the federal funds in question.

Board member Hall thanked the members of the Board and there being no further business, the meeting was adjourned at 12:30 p.m. on October 3, 2003.